

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4881 of 1997

with

CIVIL APPLICATION No 11484 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 No

GUJARAT ELECTRICITY BOARD

Versus

KURJIBHAI HANSRAJBHAI VORA

Appearance:

1. First Appeal No. 4881 of 1997
MR HS MUNSHAW for Petitioners
MR GAURANG H BHATT for Respondent No. 1, 2
2. Civil Application No 11484 of 1997
MR HS MUNSHAW for Petitioners
MR GAURANG H BHATT for Respondent No. 1, 2

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 22/04/98

ORAL JUDGEMENT

By consent, the appeal is taken up for final hearing today.

Respondent No.1 is a farmer and he owns agricultural land in village Nana Mandva, Taluka Kotdasangani, District Rajkot. On 30.6.1991 at about 5.00 p.m., he was working in his field and his son Sanjay aged about 10 years was sowing seeds. Just then, he heard a scream and when respondent No.1 went running in that direction, he saw that his son had suffered an electric shock and had fallen down. He was taken to hospital where he was declared dead. The post-mortem report shows that the death was due to electric shock. According to respondents, appellants had erected poles in their field for carrying transmission lines. One of the wires between two poles had snapped and touched the earthing-wire which caused short-circuit and the son of the respondents was electrocuted. The respondents, who are the parents of the deceased Sanjay, filed Special Civil Suit No.135/92 in the Court of Civil Judge (SD), Rajkot District at Gondal claiming Rs.1,00,000/- as compensation. The defence pleaded by the appellants was that it was deceased Sanjay who had broken the earthing wire while sowing seeds and the Board was not responsible for what had happened. However, the learned trial Judge, after recording evidence, came to the conclusion that it was not possible for a young boy aged about 10 years to break the earthing-wire and the incident occurred due to failure on the part of the defendants to maintain and check regularly the electric line. This finding is fully supported by evidence and cannot be assailed.

As for calculation of compensation, the learned Judge assessed the future income of the deceased boy at about Rs.1000/- per month on the basis that he would be employed as a labourer and after deducting 50 per cent, he took the dependency loss to the respondents at Rs.500/- per month. Applying the multiplier of 15, the learned Judge arrived at the figure of Rs.90,000/- and adding Rs.10,000/- under other heads, he awarded Rs.1,00,000/- as compensation with interest at 15 per cent per annum.

However, it is usual to take the dependency benefit to the parents of an unmarried son at 1/3rd of the estimated future income. If that is done, the compensation on that count payable to the respondents would come to Rs.63,000/-. Adding the amount to be awarded under other heads, in my opinion, it would be just and reasonable to award Rs.80,000/- in all as compensation. The appeal is, therefore, partly allowed. The respondents are held entitled to recover Rs.80,000/- as compensation with interest at 12 per cent from the date

of the suit till realisation. The decree of the trial Court shall stand modified accordingly. The amount, when deposited, shall be disbursed in accordance with the direction contained in the decree of the trial Court. The appellant shall deposit the decretal amount with costs and interest in the trial Court within six weeks from today.

In view of the order passed in the First Appeal, the Civil Application for stay stands disposed of and rule is made absolute.
